

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

KAREN SUMMERSET, individually and on
behalf of all others similarly situated,

Plaintiff

v.

LIBERTY MUTUAL INSURANCE
COMPANY,

Defendant.

Case No. 1:25-cv-11121-PBS

**CLASS ACTION
JURY TRIAL DEMANDED**

**PLAINTIFF’S MOTION TO FILE A SUR-REPLY IN
SUPPORT OF HER OPPOSITION TO THE MOTION TO BIFURCATE DISCOVERY**

Pursuant to Local Rule 7.1(b)(3), Plaintiff Karen Summerset respectfully moves for leave to file the attached 2.5 page Sur-Reply in Opposition to Defendant Liberty Mutual Insurance Company’s Motion to Bifurcate Discovery. Defendant's reply brief raises new arguments and factual assertions for the first time—specifically, the introduction of vendor links that purportedly trace Plaintiff’s telephone number to a lead-generation page CoverageHero.com that is operated by a third party. The specifics of these new materials and arguments were not included in Defendant’s opening memorandum and present new factual and legal issues warranting a response from Plaintiff. The attached Sur-Reply is narrowly tailored to address only those new arguments, including:

- The introduction of a new theory regarding Plaintiff’s consent based on purported vendor links;

- The implications of that theory on the scope and nature of discovery, particularly as it relates to third-party vendors and Rule 23 considerations;
- Why the new evidence supports, rather than undermines, Plaintiff's argument for unified discovery.

Under well-settled First Circuit precedent, arguments raised for the first time in a reply brief are waived. See *R.I. Truck Ctr., LLC v. Daimler Trucks N. Am., LLC*, 92 F.4th 330, 354 n.12 (1st Cir. 2024) (citing *United States v. Vanyliet*, 542 F.3d 259, 265 n.3 (1st Cir. 2008)). Nevertheless, Plaintiff respectfully seeks leave to respond to these newly introduced issues in the interest of a complete and fair record.

For the foregoing reasons, Plaintiff respectfully requests that the Court grant this Motion for Leave and accept the attached Sur-Reply for filing.

LOCAL RULE 7.1 CONFERENCE

Counsel for the Plaintiff conferred with counsel for the Defendant, who does not consent to the relief sought.

Dated: July 30, 2025	Respectfully Submitted:
	<u>/s/ Anthony Paronich</u> Anthony Paronich Email: anthony@paronichlaw.com PARONICH LAW, P.C. 350 Lincoln Street, Suite 2400 Hingham, MA 02043 Telephone: (617) 485-0018 Facsimile: (508) 318-8100 Chris Gold Florida Bar No. 088733 (admitted pro hac vice)

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